107TH CONGRESS 1ST SESSION

S. 797

To amend the Internal Revenue Code of 1986 to provide equitable treatment for associations which prepare for or mitigate the effects of natural disasters.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2001

Mr. Gramm (for himself, Mr. Graham, and Mrs. Hutchison) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide equitable treatment for associations which prepare for or mitigate the effects of natural disasters.

1 Be it enacted by the Senate and House of Representa2 tives of the United States of America in Congress assembled,
3 SECTION 1. EXEMPTION FROM INCOME TAX FOR STATE4 CREATED ORGANIZATIONS PROVIDING PROP5 ERTY AND CASUALTY INSURANCE FOR PROP6 ERTY FOR WHICH SUCH COVERAGE IS OTH7 ERWISE UNAVAILABLE.
8 (a) IN GENERAL.—Subsection (c) of section 501 of
9 the Internal Revenue Code of 1986 (relating to exemption

1	from tax on corporations, certain trusts, etc.) is amended
2	by adding at the end the following new paragraph:
3	"(28)(A) Any association created before Janu-
4	ary 1, 1999, by State law and organized and oper-
5	ated exclusively to provide property and casualty in-
6	surance coverage for property located within the
7	State and with respect to which the State deter-
8	mines, through appropriate State action, that cov-
9	erage in the authorized insurance market is not rea-
10	sonably available to a substantial number of insur-
11	able real properties (and any successor association),
12	if—
13	"(i) no part of the net earnings of which
14	inures to the benefit of any private shareholder
15	or individual,
16	"(ii) except as provided in clause (v), no
17	part of the assets of which may be used for, or
18	diverted to, any purpose other than—
19	"(I) to satisfy, in whole or in part, the
20	liability of the association for, or with re-
21	spect to, claims made on policies written
22	by the association,
23	"(II) to invest in investments author-
24	ized by applicable law,

1	"(III) to pay reasonable and nec-
2	essary administration expenses in connec-
3	tion with the establishment and operation
4	of the association and the processing of
5	claims against the association, or
6	"(IV) to make remittances pursuant
7	to State law to be used by the State to
8	provide for the payment of claims on poli-
9	cies written by the association, purchase
10	reinsurance covering losses under such
11	policies, or to support governmental pro-
12	grams to prepare for or mitigate the ef-
13	fects of natural catastrophic events,
14	"(iii) the State law governing the associa-
15	tion permits the association to levy assessments
16	on insurance companies authorized to sell prop-
17	erty and casualty insurance in the State, or on
18	property and casualty insurance policyholders
19	with insurable interests in property located in
20	the State to fund deficits of the association, in-
21	cluding the creation of reserves,
22	"(iv) the plan of operation of the associa-
23	tion is subject to approval by the chief executive
24	officer or other official of the State, by the

State legislature, or both, and

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- "(v) the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or State law does not permit the dissolution of the association.
 - "(B)(i) An entity described in clause (ii) (and any successor entity) shall be disregarded as a separate entity and treated as part of the association described in subparagraph (A) from which it receives remittances described in clause (ii) if an election is made within 30 days after the date that such association is determined to be exempt from tax.
 - "(ii) An entity is described in this clause if it is an entity or fund created before January 1, 1999, pursuant to State law and organized and operated exclusively to receive, hold, and invest remittances from an association described in subparagraph (A) and exempt from tax under subsection (a), to make disbursements to pay claims on insurance contracts issued by such association, and to make disbursements to support governmental programs to prepare for or mitigate the effects of natural catastrophic events."
- 24 (b) UNRELATED BUSINESS TAXABLE INCOME.— 25 Subsection (a) of section 512 of the Internal Revenue

- 1 Code of 1986 (relating to unrelated business taxable in-
- 2 come) is amended by adding at the end the following new
- 3 paragraph:
- 4 "(6) Special rule applicable to organiza-
- 5 TIONS DESCRIBED IN SECTION 501(c)(28).—In the
- 6 case of an organization described in section
- 7 501(c)(28), the term 'unrelated business taxable in-
- 8 come' means taxable income for a taxable year com-
- 9 puted without the application of section 501(c)(28)
- if at the end of the immediately preceding taxable
- 11 year the organization's net equity exceeded 15 per-
- cent of the total coverage in force under insurance
- contracts issued by the organization and outstanding
- at the end of such preceding year.".
- 15 (c) Transitional Rule.—No income or gain shall
- 16 be recognized by an association as a result of a change
- 17 in status to that of an association described by section
- $18 \ 501(c)(28)$ of the Internal Revenue Code of 1986, as
- 19 amended by subsection (a).
- 20 (d) Effective Date.—The amendment made by
- 21 subsection (a) shall apply to taxable years beginning after
- 22 December 31, 2001.

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